

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 24**

LM WASTE SERVICE CORP.

Petitioner/Employer

and

UNIÓN DE TRONQUISTAS DE
PUERTO RICO, LOCAL 901, IBT

Union

Case 24-UC-252

DECISION, ORDER AND CLARIFICATION OF BARGAINING UNIT

Upon a petition duly filed under Section 9(b) of the National Labor Relations Act, as amended, hereinafter the Act, a hearing was held on September 8, 2008, before a hearing officer of the National Labor Relations Board to determine whether the individuals in the classifications of “group leader” for the residential drivers and helpers, and a “group leader” for the mechanics should be excluded from the unit on the basis that they are supervisors within the meaning of the Act.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.¹

¹ Upon the entire record in this proceeding, the undersigned finds:

- a) The hearing officer’s rulings made at the hearing are free from prejudicial error and are hereby affirmed.
- b) The parties stipulated, and I find, that the Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

GENERAL STATEMENT OF FACTS:

On March 3, 2008, Union de Tronquistas de Puerto Rico, Local 901, IBT was certified in Case 24-RC-8588 as the collective bargaining representative of the employees of the Employer in the following appropriate unit, referred to as Unit A:

INCLUDED: All regular full-time and part-time commercial and residential employees, including the mechanics, drivers, welders, checkers, helpers and laborers employed by the Employer at its facility located in Juana Diaz, Puerto Rico.

EXCLUDED: All other employees, including those mentioned in Unit B, guards and supervisors as defined in the Act.

On July 11, 2008, the Employer filed the instant petition. On August 26, 2008, the Regional Director issued a letter dismissing the portion of the Petition concerning the request to clarify the Unit to exclude the positions of landfill employees, including heavy equipment operators, landfill truck drivers, utility employees, laborers and checkers,² and, by separate Order, directed a hearing concerning the request to clarify the status of the aforementioned group leaders.

Pursuant to a Stipulation of Facts entered into by the parties³, it was agreed that at the Juana Diaz facility the Employer employs two individuals who hold the position of group leader for the drivers and helpers of the residential routes. The parties specifically stipulated that currently Leonardo Colón occupies the position of group leader for the residential routes of Juana Diaz and José Santiago is the group leader for the residential routes of Coamo. The parties stipulated that Leonardo Colón and José Santiago have

² On September 9, 2008, the Employer filed a Request for Review regarding this determination which is pending before the Board.

³ On September 19, 2008, the parties in this case executed a written Stipulation of Facts, and by Order Receiving Exhibit And Closing Hearing dated September 22, 2008, the Stipulation was received in evidence as Board Exhibit 2.

the authority to hire temporary employees, discipline employees, assign and direct work using independent judgment, and therefore that these two group leaders are supervisors within the meaning of the Act. The parties further stipulated that Alfonso Torres occupies a position of Supervisor of mechanics in the Juana Diaz facility and that as such, he has the authority to hire temporary employees, discipline employees and assign and direct work using independent judgment, and therefore, that Alfonso Torres is a supervisor within the meaning of the Act.

DECISION

Accordingly, I shall clarify the certified unit to exclude from Unit A, the group leaders for the residential routes of drivers and helpers and the supervisor for the mechanics at the Juana Díaz facility.⁴

ORDER

IT IS HEREBY ORDERED that the unit certified in Case 24-RC-8588 be, and it is hereby clarified to exclude from the unit the positions of group leader for the residential drivers and the position of mechanics' supervisor.

RIGHT TO REQUEST REVIEW

Under provisions of Section 102.67 of the Boards Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099, 14th Street, N.W., Washington, DC 20570. A request for review may also be submitted by electronic filing. See the attachment provided in the initial correspondence in this case or refer to OM 05-30 and OM 07-07, which are available on the Agency's website at www.nlrb.gov, for a detailed explanation of requirements which must be met when electronically submitting documents to the

⁴ As no individuals are currently employed in the position of group leader for the mechanics, in accordance with Board policy, no unit determination is made at this time in this regarding this classification

Board and Regional Offices. Guidance can also be found under *E-Gov* on the Board's website. This request must be received by the Board in Washington by 5:00 pm., EST on October 23, 2008. This request may ***not*** be filed by facsimile.

Signed at San Juan, Puerto Rico this 9th day of October 2008.

Marta M. Figueroa
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National Labor Relations Board
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